



**MINISTRY OF JUSTICE**

**LEGAL SYSTEM  
REFORM LAW**

**1977**



# **LEGAL SYSTEM REFORM LAW**



## *RESOLUTION No. (271)*

*In the Name of the People*

*The Revolutionary Command Council*

In accordance with the provisions of para (A) of Article 42 of the Interim Constitution, the Revolutionary Command Council have decided in their session held on 6.3.1977 to promulgate the following Law:

*LAW No. (35) OF 1977,*

*LEGAL SYSTEM REFORM*

### **Article 1**

In this Law the Working Paper of Legal System Reform in Iraq attached thereto shall be approved and be accredited as a basis of changing, substitution or amending of Laws and other enforced legislations required by the reform.

### **Article 2**

The Ministries and State organs, bodies and establishments shall be bound by the Working Paper of Legal System Reform in Iraq and by the coordination of cooperation for its fulfillment with the Ministry of Justice.

### **Article 3**

The Minister of Justice shall carry out the measures necessary for providing the requirements for the achievement of the legal system reform and issue the necessary Instructions for facilitating the execution of this Law.

### **Article 4**

This Law shall be published in the Official Gazette and the Ministers shall undertake its execution.

**Ahmed Hassan Al-Bakr,  
Chairman of the  
Revolutionary Command Council.**

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### ***STATEMENT OF GROUNDS***

Whereas the Working Paper of Legal System Reform in Iraq, prepared by the Ministry of Justice, has derived its source from the principles believed in by the Arab Baath Socialist Party and the goals which it endeavours to achieve, and has depended in defining the goals, concepts and purports of legal reform on the ideological bases and notions contained in the Political Report of the Eighth Regional Conference of Arab Baath Socialist Party, and for the purpose of enforcement of the Working Paper, this Law has been enacted.

## **WORKING PAPER OF THE LEGAL SYSTEM REFORM IN IRAQ**

### **Introduction**

The building of new society and procreation of new Arab man cannot be performed by merely changing the political system and the order of ownership, but it is indispensable to create new values and concepts in the direction of a cultural and humanitarian evolution which the Revolution of July 17th-30th, 1968 has laid down its main foundations and defined its directions. It is also necessary to exert a many sided effort to transform these foundations and directions into legal rules which will be the organizational frame for the society in its present and future. Therefore, legislations play so important role that they become an element of building, means of progress and instrument in the hand of the political leadership in the process of destruction of feudal, tribal and capitalist values which hinder the march of Revolution towards building up the socialist society. The Revolution has faced legislations which expressed the ideology of the exploiting and ruling classes and groups in times of despotism, reaction and reflected their economic, social and political interests.

It was natural, after the Revolution has destroyed the political power of these eras and started its process towards building the new society and establishing a Revolutionary Regime, that the Arab Baath Socialist Party, which is leading the Revolutionary Power, basing itself to a nationalist socialist and democratic theory has taken the initiative in carrying out a decisive and comprehensive change in the previous legislations and building up a modern State of Revolutionary Authority which endeavors to establish a harmonized socialist Society. A great achievement of this goal has been actually fulfilled by issuing new Laws of extremely great importancee laying the foundations of a new legal system, such as the Law of Agrarian Reform and of Labour. But this does not include the whole picture of the change wanted by the Revolution as many of the precipitates of previous eras were still represented in the various backward legislations governing many activities and organs of society and State which have remained unchanged. So, obstacles to the movement of interaction and change led by the Party have arisen and a case of imbalance and disharmony among different sectors of society has been created.

The existence of these legislations has become



contradictory to the philosophy of the Party and inconsistent with the requirements of the national development operation, namely, with the change or transformation in economic and social life led by the Revolution. This transformation requires replacement of economic, social and administrative structures which were imposed by "forces" of backwardness, with others consistent with the requirements of building the new society. So the development or the social development needs a change of economic and social system and, consequently, a change of human reality. As every system is governed by rules which are mostly legal, so development means changing of these rules which govern the human and material forces and relations in accordance with certain concept the result of which are goals and plans of national development. Hence the importance and even the necessity of setting up the proper legal rules which accelerate the process of social and economic life towards the qualitative and quantitative change.

Whereas the march of Revolution aims at carrying out decisive and comprehensive change in the whole structure of the old society, getting rid of the precipitates of eras of slavery, backwardness and exploitation, and starting towards

the unified socialist and democratic society, so the first task that represents itself to the revolution is the establishment of a special legal system of its own which is integrated, of clear marks and strong in its foundation, as a means by which the Revolution realizes its entity with ascending movement transitionary and strategical.

Whereas the legal system is a collection of legal rules and conditions enforced in a certain country in a certain time, then, it is the result of choice of the political leadership in the economic, social and political fields in that country.

As Law is the product of the will of Revolutionary Authority, it is then, one of the principal instruments of the Revolution for changing the society.

And when the Revolutionary Authority surpasses in its concepts and alternatives the movement of reality, while it interacts therewith, so, by Law it builds the future society.

Whereas every real revolution stands on ideological foundation of firm signposts, so every attempt to define the goal of legal system reform must be preceded by defining the ideological ground from which reformation springs and on

its guidance, legislations in force could be changed, amended or repealed.

But defining the foundations, bases and goal of legal system reform is not sufficient to achieve this reform unless the means by which this reform is achieved are defined.

So the reformation of legal system in Iraq requires definition of the bases, goals and means in three parts as follows:

**Part One:** Bases of Legal system Reform.

**Part Two:** Goals of Legal system Reform.

**Part Three:** Means of Legal System Reform.

## *PART ONE*

### *BASES OF LEGAL SYSTEM REFORM*

In order to define the ideological foundations or the main thought conceptions which shall be as clear theoretical signposts for legal reformation, recourse must be made to the principles in which the Baath Arab Socialist Party believes and to the goals which it endeavours to achieve. And as the Revolution of July 17-30, 1968 has crystalized in the Iraqi country many of these principles and gave them further

theoretical and practical dimension, therefore definition of the bases of legal system reform in Iraq requires, before any thing, the definition of the nature and goals of July Revolution 1968. Since we are dealing with the question of legal system reform and because of the inseparability of State and Law as it is impossible to comprehend the legal system without a certain conception of State, therefore it is necessary to explain, thereafter, the position of July Revolution of 1968 towards State and Law. So, in two chapters, we shall deal with:

The nature and goals of July, 1968 Revolution, then the position of July Revolution towards State and Law.

## **CHAPTER ONE**

### **Nature and Goal of July, 1968 Revolution.**

The Political Report of Eighth Regional Conference of Arab Ba'ath Socialist Party has defined the nature and goals of July 17, 1968 Revolution by saying: "The July 17, 1968 Revolution, in its essence and goal, is a liberating, democratic, socialist and unitary Revolution "(page 13). And the July, 1968 Revolution was able "... to dig a new and upward road in the

revolutionary movement in our country and in the Arab revolution, and to put the basic foundations for national, peoples revolutionary socialist, democratic and model experiment in the Arab Homeland and the Third World, which plays, now and in the future in stronger and more shining way, a prominent and leading role in the Arab and world revolution movement" (Political Report, P. 14)

Therefore, the Arab Baath Socialist Party which led the July 17-30-1968 Revolution is ".... a socialist revolutionary party which considers socialism as decisive necessity for liberating the Arab Nation, its unity and modern renaissance... so its first struggling tasks are to spread the socialist thoughts and values and to embody them in its struggling practices on all levels and to endeavour to apply them in accordance with the requirments of each stage ..." (Political Report P. 103) Therefore, the tasks required by the new stage in the revolutionary development in Iraq are ".. to put as much as possible of introductions of transmission to socialism (The Report P. 13).

But ".. The task of putting the introductions of transmission to socialism requires concentra-

tion on socialist culture, reliance on the socialist revolutionary cadre and colliding sometimes with the bourgeoisie or some of its layers .. in addition to the severe struggle which is required by the task of liquidation of the remains of feudal class, which has its own roots inside the bourgeoisie class" (The Report P. 109) The Revolution led by Arab Baath is a socialist Revolution, so the Party fully comprehends the dangers of deviation towards state Capitalism which is "'a distorted image of socialism ... as it negates or falsifies the democratic relations in production, freezes the role of working class therein, paralyses its vitality and makes the bureaucratic officials matters of production and makers of its destinies who impose upon the working class and lower strata of officials a new kind of dictatorship which does not differ much in methods and consequences from Bourgeoisie dictatorship, and practise against it, in various ways, direct and indirect, new kinds of exploitation which do not differ in result from the bourgeoisie exploitation. It, in addition views the cause of socialism erroneously when it thinks that it is existing only in directing the economic side of State and society movement". (Political Report P. 112)

The July, 1968 Revolution, however is not

only a socialist Revolution but also a socialist, democratic and peoples revolution. So the main task which awaits the Party in the field of democratic transformations during the coming five years is the completion of the constituents and institutions of "peoples democracy" (The Report P. 226).

"And it is necessary to stress that the crisis of democracy, is one of the most serious crises of Arab revolution movement.. and the present Arab reality.... that the success in achieving a democratic poeples, sound and integrated experiment is the primary factors which make our experiment in this country a model and inspiring to the Arab revolution movement" (The Political Report, P. 228). Therefore it is required" to complete the theoretical, political and legislative requirements for people Councils formula and provide the experienced cadres for its leadership and to give them the care and attention they deserve as one of the new institutions of the revolutionary society and as one of the props for building the democratic people's experiment .. and the future stage requires, in this field, an extensive development of the thought activity to find the formulas and solution for the problems which are laid by the question of completing the constit-

uents of people's democracy ....”

(The Report, P. 227).

But laying down the foundations and constituents of people's democracy must be in accordance with formulas which correspond with the objective circumstances of Iraq, so that we must (... preserve, in the process of building up the democratic and people's experiment a strict balance.. in that it is not permissible to haste and take steps, the objective requirements of which are not prepared.. nor, simultaneously, to exaggrate, the difficulties and mistakes and, consequently to hesitate in going ahead for completing the constituents of democratic and people's experiment “(The Political Report P. 227-228).

The Arab Baath socialist Party which leads the process of socialist changes in the country, within integrated socialist and democratic direction, and which, among his central tasks, faces (... the task of carrying out of program for socialist transformation in all fields of Iraqi society) (the Report P. 103) is very keen on ((.. .... creating a general condition of balance and coordination in the fields of economic, social and cultural transformations by using additional abilities



and efforts in the backward fields and branches and to push them to reach the other more advanced fields, and then leading comprehensively the process of the changes towards the strategic goals of the Revolution, in a balanced and coordinated way. And deepening the economic, social and cultural and other changes and accelerating them for the purpose of building all the necessary material and moral foundations for transition to socialism.)) (The Report, P. 216-217).

It, in addition, stresses the necessity of avoiding ((.. the general formulas which do not constitute a concrete work guide. The utmost possible efforts must be exerted to formulate a clear, realistic revolutionary program at which the will of the Party and masses shall meet and unite, and the possibilities of different and conflicting interpretations shall be refuted.

After the experience of five years and a half in leading the political authority and in leading the liberating, democratic and socialist changes and knowing their complicated problems and after the difficult and delicate-even-bitter experiences the Party, passed during the previous stage, on the regional and national level, and which the movement of Arab revolution has passed, we must

know precisely our foothold today and define, precisely too, what we have to do and what is possible to accomplish of tasks during the coming stage which shall extend over the coming five years))

(The Political Report, P. 11-12).

## *CHAPTER TWO*

### **The Position of July Revolution as Regards to State and Law**

From what has been mentioned above, the Revolution faced the problem of State and Law. So the Political Report recognised that ((the radical changes, within national, socialist and democratic horizon in the structure of State and legislation .. occupy an importance similar to that of the (other) radical changes of the national democratic and socialist character .... and are closely connected with them, and supposed to go along the therewith in order that the process of changes may go ahead towards the achievement of the Revolution goals in one way in which each link will complete the other)).

(P. 155)

## Item (1) The State

((at the time of its arising, the Revolution has inherited a State system which was formed under the old eras that our nation struggled to bring them down as beginning from the era of Ottoman Rule and passing by the British occupation and feudal and bourgeois monarchy era and the dictatorial and rightist era of Kassim and Arif. By nature of its social structure, mentality and practises, this system formed a Bureaucratic, rightist and backward system hostile to the Revolution, in its contents, national, democratic and socialist goals or retarding it at best)). (The Report, P. 155)

But if it is so, why the Revolution of July 17th-30th, 1968 retained the old system of State in Iraq? The Report answer this question as it says: ((The Arab Ba'ath Socialist Party and the Revolution, in spite of the risks which surrounded them as a result of remaining of the old system of the State, in all its institutions as it was, and in spite of many hindrances on the road of the revolutionary transferences which emerged therefrom distortions and contravenes of revolutionary measures and resolutions, they were obliged to retain the general frame of the State

system and to concentrate in the first days and the following stages on the tightening of control on the top of State and its principal sensitive centres ...) (P. 157). This is due to the fact ((that the balances of social forces which made it necessary to adopt (a certain method) in attaining the political authority and the nature of condition specific to Iraq and the region and the circumstances of present time with all its speedy advanced and complex methods, communications war, production services, information and in other vital fields make the State system that cannot be dispensed with, even for one day, nor is it possible to paralyse its movement on very large scale .. therefore the tendency to dissolve this system with all its institutions and to start establishing new system as substitution to it, or to conduct immediate and large-scale changes in it shall necessarily lead to complete chaos and grave injuries. This objective fact has heavily imposed itself on the Revolution..)) (P. 156-157). ((The Revolution then, did not build up its own system before its seizure of power as it happened in some of the world revolutionary experiments such as the Chinese Revolution. At the same time the Revolution was unable to dissolve the old system entirely, and to start with building a new

one as it happened in other world experiments such as the Russian Revolution)).

(The Report, P. 156).

Besides, (some changes were introduced into the structure of State .... in the years (July, 14th), 1968 and (July 17 the), 1968; some of these were progressive, but were not coordinated and connected to each other and formed small, scattered isles in an hostile sea .... and oftenly endured contravention, out flankink, emptying them from progressive contents even in the regims under which they were issued)) (The Report, P. 156).

Therefore, the Party and the Revolution have decided (( ... to go across along tiresome, complicated, gradual and varied operation in introducing continuous changes into the machinery of the State ... in such a way that will secure the necessary conditions for achievement of the radical revolutionary changes in accordance with their national democratic and socialist principles and goals)) (The Report P. 157) But the changes that should be completed in this field have been delayed or stumbling. The Political Report attributes this firstly to "... the wrong attitudes and practises of many of those who undertook principal responsibilities in the State Machinery and who were supposed to lead correctly the

operation of the revolutionary transformation therein.

Some of the comrades did not appreciate the objective circumstances .. properly so they tried to burn the phases in unscientific and hasty way, which caused the abortion of some attempts at serious changes which were supposed to be completed within gradual and studied plan. They also gave disencouraging examples to both leadership and the masses for rapid change in the State system .. also some other comrades have behaved, under the cover of ((objectivity)) and ((prudence)) as bureaucrats lacking the revolutionary zealousness and horizon, so they ((colonized)) in the State institutions like their old officials and did not exert any real and serious efforts for developing themselves in a revolutionary and creative manner and for developing their other comrades who are working in the organs and for winning the national elements to the Party and Revolution side and spreading the spirit of zealousness among them and encouraging them to give gains to the Revolution, so that the party can speed up the operations of revolutionary change in this field and save a great deal of effort and time for achieve-

ment of its tasks therein and in the other fields))  
(The Report P. 158)

**Item (2) Law :**

((Laws are reflection of the ideas and economic interests prevailing in the society)) (The Report P. 163).

(( ..[T]he legislations inherited by the Revolution, which were governing the economic and social relations, expressed the economic interests and ideology of social classes and groups prevailing through the eras in which they were issued, so most of them were reactionary or rightist or, at the best of them, reformist ...

Many of them were also backward and far from the spirit of the age and its variablities...))  
(the Report P. 155-156). ((The Arab Ba'ath Socialist Party has struggled in revolutionary and comprehensive way against these eras with all the ruling class, interests and thoughts they represented. Therefore, the natural position-after the Party siezed the political power and established a revolutionary system representing the interests of toiling classes and based to a national, socialist and democratic theory, is to reconsider all the inherited Laws and legislations

in order to change, improve or repeal any one thereof if need be repealed. (The Report P. 163-164).

Also, ((the continuity of previous Laws and legislations is creating now a case of imbalance and disconformity in society .. so, while the Revolution, its decisions and measures express the interests of toiling classes and the national, socialist and democratic ideology of the Arab Baath Socialist Party, the prevailing Law are still organizing the social and economic relations in the society in accordance with the thoughts and interests of the classes and strata against which the Party and people have struggled and which the revolution has overthrown.)) (The Report, P. 164)

Moreover, (the continuity of the legislations issued by the exploiting and backward classes and strata flagrantly conflicts with the requirements of revolutionay change led by the party and its national, socialist and democratic conceptions of building the new society) (The Report, P. 165).

It is true that some changes have been introduced into legislations in the years between the two Revolutions of July 14th and 17th and someof



which were progressive, but they lacked the comprehensive, the extensive look and oftenly were exposed to breach, violation, containment and emptying them of the progressive contents even in the regimes under which they were issued.))

(The Political Report, P. 156)

Therefore ((the Party has been confronted, from the first day of its seizure of the power, with the problem of the prevailing Laws and legislations. The Revolution found itself unable to lead the country with the existence of these Laws and legislations. Therefore, the Revolutionary Comm- and Council assumed the capacity of the Supreme Legislative Body, and its decisions have taken the force of Law and its effect.

By this decisive measure, the Revolution was able to solve an important part of this problem and to continue the operation of social and economic transformation. But in spite of its importance, this measure is not sufficient for facing the problem as long as most of the inherited Laws are prevailing ...

During the previous, sage, the leadership of the party and Revolution had to lead the operation of changing directly some of the existing legisla-

tions through higher offices and committees formed for this purpose ... and actually new Laws of great political, economic and social importance have been issued such as Laws of Agrarian Reform, Labour and other Laws ... but the legislative structure in the fields which the leadership of the party and Revolution did not take direct initiative to change, remained as they were before .. most of the judicial organs have also remained in their backward conditions inherited by the Revolution)) (The Political Report, P. 164-165)

Socialist Party, it is necessary to reconsider, in So, in keeping with the ideology of Arab Baath, a unified form, the inherited Laws and legislations for changing, improving and abolishing thereof according to the requirement.

And ((.. this task has not been achieved during the previous stage in the form stipulated by the principles of Revolution and its aims and required by the process of revolutionary transformation. The larger part achieved in this field was done by direct initiative of the leadership of the party and Revolution.

Therefore (it is inevitable).. that the stage of the coming five years will witness the achievement

of this task on extensive and radical scale for getting rid of the imbalance and disharmony existing in the society because, of the Revolution and its expression through its decisions and measures, of the interests of toiling classes and of the national, socialist and democratic thoughts of the Party from one part and the other, because of the existence of most prevailing laws which organize the social and economic relations in society in accordance with the thoughts and interests of classes and groups against which the party has struggled and overthrown by the Revolution.

The coming stage, in the light of the qualitative development which the Revolution has achieved in all the fields, requires introducing decisive and comprehensive change in the inherited legislations .... )) (The Report P. 241).

But this change must be accomplished ((.. in a form that goes in harmony with the development brought about in the process of the Revolution and the new social relations created by it .. and with the strategic goal of the Revolution..)) (The Report, P. 165), (( ... and in what goes in harmony with the principles of the Party and the Revolution, and with the requirements of present revolutionary transformation and its latter

development and with the measures taken by the leadership of Revolution and the legislations issued by it in political, economic, social and administrative fields.)) (The Political Report, P. 241).

The Official Gazette No. (37)

## *PART TWO*

### *AIMS OF THE LEGAL SYSTEM REFORM*

The activity of individuals and institutions in society is, in one of its aspects, economic one and consequently commercial. activity. Therefore it is regulated by legal rules or economic and commercial legislations. Social life is not only economics or commerce, but is, in its other aspect personal and financial relations governed by another kind of legal rules which are civil legislations. But the economic and commercial legislations and the civil legislations are but alternatives for the political leadership translated into legal rules in accordance with a certain concept of the reality of the society and its development. And as these legal rules need "administrative" organs which maintain and implement them, then it is necessary to have legislations which organize this "administration" and define the policy of the leadership towards the total social

and economic questions. So the activity of the authority and the administrative organs is governed by administrative and political rules or legislations.

But the rules laid down by the political leadership for framing the economic, social and administrative activities in society may be violated and consequently, it is necessary to ensure the integrity and respect of these rules through promulgating penal legislations springing from the same comprehensive concept of the society. As we aim at reforming the legal system, which is a collection of enforced rules and legislations in a certain country in a certain time so the goals of legal system reform in Iraq shall be defined by dealing with four principal legislative collections in four chapters as follows:

**Chapter One : The Economic and Commercial Legislations**

**Chapter Two : The Civil Legislations**

**Chapter Three : The Administrative and Political Legislations.**

**Chapter Four : Criminal Legislations.**

## CHAPTER ONE

### *THE ECONOMIC AND COMMERCIAL*

The economic legislations are regarded as a reflection of the existence and nature of objective economic Laws prevailing in the society and controlling the economic operations taking place therein, which in its totality a unified system of the main and necessary relations which have general and repeated nature for economic phenomena which happen in the society and are interacting among them.

The relations among the objective economic Laws form in its entirety the existing economic system, so, the economic legislations are embodiment of this system and an expression of its subsequent development. They are also embodiment of the ever-moving social reality in its interaction with the thoughts springing from it and those affecting it.

The task of economic legislations is manifested in organizing and controlling the conscious movement of the economic activity for attaining the goals defined by the political leadership.

By this they perform their organizing function as a tool in the hand of the authority for direc-

ting, leading and controlling the economic and social operations taking place in a frame of certain economic organization.

Whereas commerce is a specialized economic activity in the frame of division of social labour and as the sector of commerce is one of national economic sectors which must, in its activities serve the process of economic growth and development of the society and that its legislations must be coordinated with all other economic legislations so we will define, firstly, the goals of economic legislations, then, afterwards deal with the commercial legislations.

### **Item (1) The Economic Legislations.**

For participation of the economic legislations actively in the process of revolutionary development taking place in the country and in the organization, directing and administering the economic relations in the society through the various State organs and defining their powers and duties and drawing the horizon of the subsequent economic and social development and formulating the introductions of transition to socialism, they must aim at:

- Organizing the national economic in units, which carry out qualitative econo-

mic activities in the fields of production, distribution and services (such as factories, State farms, collective farms, agricultural cooperatives and commercial and services institutions), and which enjoy special autonomy and powers. They are bound with duties in a frame of unified economic organization.

- Putting rules organizing the self activity of the economic units in administrating and directing their affairs and internal relations.
- Putting rules organizing the economic relations among the different economic units.
- Putting rules governing the solution of disputes which may arise inside the economic units or among them, in the light of the interest of national economic.
- Organizing the administration of economic units producing commodities and those which render services, within the State central planning, and on the basis of sectorial and regional economic activity, and ensuring the application



of the method of scientific planning on various level and in the economic and social fields.

- That the legislative rules must apply to all activities of economic units, whether they are in the frame of public or cooperative sector, or the mixed and private ones, as they are bound by the goals in enriching the material social wealth and in evolving the human power, and serving the national economy, in the light of the task of national development plans.
- That the rules organizing the economic relations between the central economic organizations and the enterprises attached thereto in the Governorates, Qadhas and Nahiyahs and on the level of relations among the various economic sectors must be defined.
- Putting the rules which expedite the growth of public sector in all branches of national economy and making it a sector controlling all the sectors and branches of national economy so that it will play the main and decisive role

in the operation of comprehensive national development.

- Putting rules for developing co-operative sector in agriculture so that it will include the various stages of the operation of reproduction (the production, distribution, exchange and consumption) and in order that it may become main sector complementary to the activity of the public sector in agriculture.
- Developing the cooperative sector in the field of professional production and services, raising its productive efficiency and improving the standard of commodities and services rendered to the masses, and ensuring the development of standard of those working in this sector.
- Putting appropriate rules for developing the mixed sector towards the achievement of the goals of National Development Plans and strengthening the role of public sector therein, and ensuring the reinvestment of an important part of the profit made in this sector for expanding and improving production.

- Putting rules which organize the spheres of activity and movement of the private sector in the process of development, and using its financial and technical capacities under the supervision, direction and leadership of public sector in a form that will ensure the limitation of its exploitation and spontaneity of its activity.
- Putting binding rules for running the Iraqi economy on the road of comprehensive central planning, provided that they will include all the stages of preparing, formulating, executing and following up the economic and social plans in the process of re-production.
- Defining the jurisdictions, and power of the organs of economic administration within comprehensive view of economic and society and in a frame of collective responsibility of these organs in administering, directing and planning the economic activity in various sectors.
- Putting proper rules for the distribution and re-distribution of national income in conformity with the needs of the country

and its national and native tasks in addition to changing its distribution in the interest of the actual producers of social wealth.

- Putting rules organizing the financial policy as a means for implementing the State economic and social policy in the light of the public budget (the ordinary and exploiting) and laying the bases which ensure the application of effective credit, monetary and price policies which contribute towards the achievement of the tasks of native and national economy of stages and long term.
- Putting rules to ensure that the taxation and pricing policy will express economic and social content corresponding with the revolutionary nature of economic policy of the State, and putting thereof in the service of national development and the masses.
- Putting rules of ensuring developed criteria of work in a frame of integrated system for economic motives, which **links in a right and effective way** productivity, cost, wages, remunerations,

prices and profit, and harmonises the interest of individuals working in the economic units with the interest of these units and the entirety of the national economy.

- Putting rules for developing the role of the masses participating in the process of comprehensive development organizing the competition among them, activating their energies for increasing and improving the production and to directing them towards raising their standard qualification.
- Defining the relation between the leadership of political authority as being the defining and directing of the economic and social policy, and the State organs, whether those responsible for formulating national development plans or those executing the economic and social policy or those responsible for following up and controlling over the total current economic operations in the country, defining the relations among these organs on various levels and fields and ensuring their rapid and conscious movement.

- Putting the requirements of socialist structure, as the economic legislations aim at preserving social wealth and enriching it continuously and the conscious response to the necessary and increasing needs of the masses and to ensure the independent, diversified, balanced and flourishing development of national economy, guarantee the achievement of the Arabic economic coordination and integration for the purpose of laying the material foundations for Arab unity and to ensure the development of equal economic relations with other States in the light of domestic and national tasks and interests.

### **Item (2) : The Commercial Legislations**

The commercial relations in Iraq are governed by various Laws issued in different periods and under different systems, and most of them are based on the capitalist economy and on the achievement of the interests of exploiting groups. Even the Law of Commerce issued in 1970 is no exception to that as the bases on which it relied in its provisions do not go beyond the bases on which the Code of Commerce issued

in 1943 had relied, it retained the old values and the provisions unable to face the new changes in the society, the result being that the difference between it and the previous Law is only one concerning re-warding and introducing some provisions, such as those concerning commercial house, air transportation and banking, without taking into consideration the expansion of the State activity in the field of commerce.

The Iraqi commercial legislation has given to the power of will the sanctity of imperative provisions, and even has made it prevail over the rule of Law. Also a tendency prevailing of the interests of creditors over the interests of debtors, as it detailed the specifications of bankruptcy which are distinctive with partiality towards creditors on the account of interests of debtors, and even on the account of the public interests, they are also characterised with cruelty and abusing the dignity of debtors. The legislation has subjected the non merchants to its provisions if the contract it regarded commercial in respect to one of the contractors and gave the freedom in proving the commercial obligations whatsoever their value which is another immunity given in addition to those immunities which were granted to the creditors.

Also it attributed the character of commercial work to some works practised by the State while these works are regarded as principal duties thereof in the range of provision of services to citizens. And it considered the public commercial sector as casual occurrence. If the authority of the Revolution has issued new progressive laws such as the Law for Organization of Trade No. (20) of 1970 (as amended) to strengthen its control, by this Law and the other economic and progressive laws, resolutions and notifications, on important aspects in the economic field to be thereby able to achieve its goals in drawing and organizing the commercial policy and supervising its execution within the frame of the development plan in a way that will ensure the evolution and protection of national economy and prevention of monopoly and manipulation of prices of commodities and services, it is necessary to reconsider the commercial legislations lagging behind the process of social transformation the country, in accordance with the following grounds:

- To put the external trade under the control of the State, to control centrally the internal trade, and to make the role of the cooperative and the private



sectors in the internal trade a complementary one which conforms with the requirements of economic development and does not go out of its limits.

- To plan the activity of trade sector and to link it with the plans of national development and to ensure its carrying out of providing commodities and services to the citizens.
- To regard practising of trade, by any ways whatsoever by those who were forbidden to do that by the special laws and regulations, as an offence punishable by law because that would lead to confusion in economic planning and harm to public interest.
- To entrust the body concerned with the organization of trade as one of its main tasks with issuing rules organizing the commercial books, commercial register and conditions of commercial house.
- To unify the provisions concerning competence in the civil and commercial matters and include them in the Civil Law, for the purpose of coordination of the similar matters.

- To unify the general provisions of the obligations and contracts include in the civil and commercial matters and phrasing them in the Civil Law.
- To limit the system of mediation and to unify the provisions of agencies and phrasing them in the Civil Law.
- To repeal the provisions concerning the market of speculation (stock exchange) as speculation is one of the sources of exploitation on which the capitalist system is based and which conflicts with socialist policy.
- To organize the operations of storage of commodities and to entrust making provisions concerning deposit in the public store house to the body concerned with the organization of trade as being the authority competent to assign the places and storehouses, and to organize their administration and operating directly by the state or by an authority appointed by it for this purpose.
- To draw the rules for organizing the sea, river, air and land transportation,

because of the importance of these utilities in the operation of the economic development of the country.

- To draw the rules for organizing banking and commercial papers in conformity with the requirements of socialist transformation and the execution of national development plans.
- To eliminate the provisions of commercial bankruptcy and to unify the provisions concerning the following up of the insolvent debtor whether he is a merchant or not and to formulate them in rules aiming at the liquidation of the debtor assets in a collective way in a frame of the public interest.
- To unify the provisions of evidence in civil and commercial matters in a special Law, in which the simplification of formalities and recognition of the principle of equality would be sought.
- To put rules for organizing and coordinating the financial and accounting matters for establishments, enterprises and companies relating to various economic sectors.

- To lay down detailed provisions for organizing the administration of public commercial establishments and enterprises of public sector, as the enforced legal provisions are inadequate to deal with these matters.
- To formulate unified rules applicable to all the establishments and enterprises of public sector for eliminating from them the confusion, explaining to them the goal, and helping in executing the development plan so as to get far from the State Capitalism and to avoid the faults of Bureaucracy.
- To draw up detailed rules for the companies of mixed sector in such a way as will ensure its support and proping of the public sector at the present stage.
- To simplify the measures of establishment of the companies of private and mixed sector and facilitate their practise of their work for encouraging the investment of national capital.
- That the State shall specify goals of every company of the private sector

applying thereby the principle of specialization and preventing them from changing their works in a way incompatible with the planned economy.

- To lay down rules which emphasize the supervision and control of the State on the administrations of companies of private sector, to define the range of their works and to direct them in accordance with the economic planning.
- That the supervision on the companies of private sector shall take its complementary organizational form in a way that will ensure their movement within their goals and those of the development plan and will not hinder its initiatives and will prevent them from getting facilities or exemptions without work or to do illegal acts.
- To draw up concentrated provisions for those companies of private sector whose importance has diminished in the recent years.
- To draw up provisions which guarantee subjection of the foreign companies to the control of the State and to ensure

their carrying out the works entrusted to them within the public economic policy of the State.

## **CHAPTER ONE** *Two*

### ***THE CIVIL LEGISLATIONS***

The civil legislations in Iraq contain a collection of rules derived from several sources which are different in their spirit and directions. But in spite of the difference in their fields they all must be based on one and the same bases and must seek to achieve similar goals.

In the frame of the philosophy and goals of July, 1968 Revolution, the civil legislation must aim at backing the socialist understandings and emphasizing the socialist moral values in execution and interpretation of legalrelations. All this requires drawing up legal rules and provisions which ensure the gradual transformation of the legal relations from the individual frame to the socialist one. But drawing up these rules and provisions require careful consideration of the existing civil legislations which reveals to us many of thee weaknesses which surround our ((civil)) legal life as far as the goals and contents of these legislation are concerned.

As our civil legal life is many-sided so the legislations which govern it are several and various. Thus, some of them organize the personal rights and read rights-in the frame of Civil law-and some of them draw litigation procedures.

Hereunder we shall consecutively deal will both of the civil law and the Civil procedures:

### **Item (1) The Civil Law**

The Iraqi Civil Law was issued on September 18, 1951 and it was regarded as enforced two years after the date of its publication.

Its provisions were derived from two resources: the Islamic Shara and the Egyptian Civil law which its provisions derived from western Laws and Islamic Shara.

In many cases, the Legislator was not successful in mixing rightly the provisions derived from its both resources nor in selecting the better provision from them. Also its failure to keep pace with the requirements of the present stage seems clearly.

Reformation of Civil Law requires to amend its rules radically in order to make them respond to the economic and social process and philosophy of the Revolution and satisfy the requirements

of the development and building the socialist society.

As the rules of this Law contain two sections which are the personal rights (obligations) and real rights, so it is necessary to deal firstly with the personal rights and secondly with the real rights:

### **Firstly — The personal rights:**

The personal rights, to which the first part of the Iraqi civil Law has been devoted contain two subjects which are: the theory of obligation and the named contracts. So to support the socialist concepts and go along with the economic and social evolution in the Country require a radical amendment of the provisions of obligations and named contracts, which will be concentrated on the following foundations:

- To give priority to the interest of the society, represented by State over the interest of individuals, represented by the principle of rule of the will, in execution and interpretation of legal relations, and, consequently, to reduce those differences between the relations of the public Law and those of the private Law which find their foundation in the liberal and capitalist thought.



- To consider the obligation as a relation between two parties which does not prevent changing one or both of them and which responds to the requirements of social and economic evolution and satisfy the requisites for the national development plan.
- To draw up the rules which organize the contracts of the execution of national development plan and the extent of obligations and rights arising therefrom.
- To facilitate the formality to an extent which will safeguard the public interest and does not lead to neglect the origin of right. This is because of the negligence of private right caused by as result of non compliance therewith.
- To concentrate in the contracts on the balance between the rights and the obligations resulting from them and to cancel what contradicts them and the admissibility of amending the contract by the judicature in such a way as will achieve this balance and to prevent disposal of the disputed rights.

This is in fulfilment of Justice, prevention of arbitrariness and weakening the force of the rule of will in the sphere of contractual relations if they become a source of exploitation.

- To give the character of legal relation prevalence over the character of contractual relation and to expand the recognition of the liability arising from the rule of Law in the field of contracts. This is to protect the weaker party in the contractual relation and is an expression of belief in the duty of the State in controlling the legal relations and to complete the inadequacy of contractual liability to guarantee the rights of injured parties.
- To expand the cases of nullity as a punishment in the sphere of defect of consent, with the possibility that a decision to this effect might be accompanied by, another punishment such as compensation if there is justification for it. This is to prevent exploitation by a strong party of a weak party in the contract and to eliminate the reasons

and phenomenons of pressure in the conclusion of contracts.

- To recognise that nullity may not be the only just punishment when the contract contravenes a rule of public policy concerning the content of the contract. The judicature must also be enabled to reconsider this content by omission or addition in a way that will ensure the subjection of the contract to the public policy which considers as one of its principal rules to make the public interest and requirements of national development prevail over the other interests.
- To reconsider the provision of the named contracts and to draw up the rules which ensure the harmony of their provision with the requirements of the stage. This is because some of contracts to which detailed provisions have been devoted are forced in their provisions as a result of the change in the economic and social conditions so, special provision on them were formulated which contradict the provisions of the Civil Law such as the Law for lease.

It is also because the importance of some contracts that their provisions were complying with the economic and social conditions of Iraq twenty-five years ago has emerged at the present time and begun to play so important role in the economic evolution and the development plan that the treatment of their provisions requires great care and accurate details which respond to the requirements of evolution such as the contract of insurance and agreement.

- To draw up the contract of public works, undertaking of the public utilities and contracts of agreements and importation in a way that will contain those formal and objective provisions which conform with their importance in executing the plans of national development.
- To base the non-contractual liability in the field of production and productive services and in the case of injury arising from things dangerous by their nature-such as the mechanical tools and the electrical and hydrological

powers on the element of injury only and to exclude the element of mistake as a ground for liability, i.e., on the basis of bearing the consequences.

- To base the liability for the act of the other person on the factor of injury, depending on the concept of security, so that the master is liable for the injuries committed by his dependent. He may recourse to the dependent if injury arose by the latter on his intention or gross mistake, and whoever is responsible, legally or by agreement for controlling a person who is in need to be controlled because of his minority or his physical or mental condition shall be liable to compensate the injury which is caused by that person to the other. But even if the injury is caused by a person who is in need to be controlled but there is no one who is responsible for him or it is impossible to obtain the compensation from the responsible person then the court may oblige the person who caused the injury with fair compensation taking into consideration the position of the litigants.

- To protect, by social securities, the injured persons where the provisions of non contractual liability are not sufficient to remedy the injury caused to them, as an emphasis on the duty of the State to take care of the citizens and lifting the injustice inflicted upon them.
- To draw up, seperately, social rules in the Civil Law dealing with protection of copyright in the fields of litrature, fine arts and sciences and the rights of discovery and invention and to organize their proper exploitation in a way that ensures the moral and material interest of the author, discoverer and inventor and to achieve the goals of the society in building up the socialism.
- To get the support of model contracts as a means of control on the administration and protection of the rights of citizens.
- To make a special Law for the provisions of evidence which combines its formal and objective rules.

### *Secondly — Real rights :*

The principle of the Iraqi Civil Law, in the field of original real rights, was the glorification of private property, as it considered the right of property as always exclusive right which allows the owner to dispose absolutely of what he owns, whether corporeal, interest or use. It was not restricted except in case it was grossly harmful to the neighbour or if it did not concentrate its care on what concerned the public interest in that.

The Civil Law concerned with the protection and entrenchment of the big properties and the semi-fuedal system and it did not restrict the ownership with any limit.

As regards the field of secondary corporeal rights it was, in the totality of its provisions, starting from a clear tendency preferring the interest of creditor to that of the debtor and the capital to labour. But all these are no longer going along with the policy and goals of the Revolution.

It is imperative, as starting from the actuality of economic, social and political evolution to define the basic starting points, in the title of corporeal rights, and, then the public goals which are to be achieved.

## **A — The basic starting points**

As the authority of the Revolution has refused the semi feudal - capitalist course and adopted the socialist course, the corporeal rights must be based on the following starting points:

- The socialist system aims at eliminating the exploitation of man by man and the contradictions between the individual and society interests. As the relations arising from ownership reflect on the production relations in various fields, so it is imperative to achieve equity in rights and obligations among those concerned in corporeal rights, and to recognise the principle of cooperation and mutual assistance as an important basis for what the rules and provisions of ownership in the Civil Law should be.
- The citizen, when using their ownership rights, must bind themselves with the observance of public interest, using this for a purpose incompatible with the interest of society and individuals shall be considered impermissible and the



usre has no right to enjoy what he has gained as result of that usage.

The economic development in the socialist system is dependant on the directed planning which the State exercises in different sectors. Consequently this affects the ownership relations and all pertaining personal relations which are organized by the Civil Law.

So the achievement of plans and goals of national development is considered as a basis for the legal organization of rights and duties arising from ownership. The decisions of planning have the first place among the justifications for the rise of these rights and duties. The owners must also achieve the requirements of plan of development and coordinate their activities with its goals .

- That the ownership has an economic concept, therefore, the contents and character of the right of ownership are defined and changed according to the evolution of economic relations in the society and the plans of development, and, consequently, it may take different

forms and the use and disposal of it may take forms and contents different from what they were and will be.

## **B — The General Goals**

In the new revolutionary socialist perspective, the general goals of Civil Law must be changed so it becomes an active instrument in the evolution and building up the new society. This will reflect in ownership and the other corporeal rights as follows:

- Ownership is a social function, therefore the Civil Law must define the social function of each kind of private ownership of means of production. The breach of conditions formulated by Law for carrying out this social function entails are consideration by the State of the right of the owner and a decision of its transfer to one who performs this social function.
- To give the public interest prevalence over the personal interest when they contradict in ownership or using it.
- To consider the ownership of the State

as the leading form of public ownership on the way of building up socialism and to adapt the private ownership to the requirements of stages of socialist structure.

- To expand the range of public ownership so as to include the properties of State, cooperatives and the social organizations and to protect them and, consequently, to limit the scope of the private ownership of means of production, and to organize the use of means of production of which the Law permits to be owned by individuals and to restrict the disposal by individuals of the properties which, to the society, have historical importance.
- To lay down the rules that organize the immovable and movable properties and the products in the public, cooperative and mixed sectors and in the projects of private sector that are included in the national development plan.
- To organize the investment of waqf properties within the frame of comprehensive planning in accordance with the

newest scientific methods in order to transform it into effective instrument in the operation of national development.

- The rights of private ownership of the means of production do not allow the owner to destroy them or to change its character to other than the purpose that is determined therefor, except within the limits defined by the Law.
- The possibility of transforming private ownership into public or cooperative ownership against compensation and non-permissibility of reverse except under the rules which organize the immovable, movable properties and products.
- Prohibition of ownership of public properties through seizure or lapse of time, and to prohibit ownership by individuals of resources of energy such as resources of waters and works of irrigation.
- Prohibition the rise of private ownership of real estate through adhesion.
- To reconsider the rights of common

such as right of drinking, flow and passage and to organize them in a way that will make them conform to property as a social function.

- To limit the pre-emption to the case of participation in the non-agricultural joint sirf absolute property.
- To restrict the right of ownership in the complete property in the agricultural lands and to bring it near to the right of disposal in the Miri land as the ownership of agricultural land as a social function is represented in using it for the purposes of agriculture only, When its character as being agricultural no longer exists for reason beyond the will of the owner of the land, then the land shall become a property of the State and its owner shall be compensated in kind or in cash as the case might be. Also, leaving or neglecting the cultivation of land-whatever its class might be without forcible reason or contravening the rules and requirements of development plans is regarded as hindering social function which requires reconsideration of the owner-

ship of its owner on similar rules of dissolution in the Miri lands.

- To draw up the conditions for the transfer of ownership of agricultural land in conciliatory way or by rule of law, which are to be concentrated on the possibility of carrying out of social function according to its capacity of investment and in accordance with the requirements of socialist structure.
- To define a maximum limit to the family ownership connected to practice of agricultural profession.
- To liquidate the ownership and right of disposal of "absentee" owners who do not practice agriculture or do not do its works as actual farmers.
- To decrease the numerousness of lands classes 1 which came down to Civil legislations from previous legislations some of which were inherited from the Ottoman era, and to coordinate their provisions in a way that supports the right of getting use of them as an important instrument of production in the agricultural sector.

- To abolish the right of rectifying the class of agricultural. Miri land, and to liquidate the right of Iqr in agricultural lands.
- To invalidate any action which establishes rights on agricultural land which may lead to its loss by the actual cultivator or put it out of production.
- To limit the divisibility of joint agricultural land to an extent determined by the requirements of development plan for each kind of them in different districts.
- To cancel the right of preference in the Miri lands.
- To issue a legislation concerning the ownership of agricultural lands and the rights of disposal and use of them, which combine their provisions which are still dispersed in various laws.
- To combine and coordinate the provisions in the agricultural legislations and to achieve their harmony with the projects of other sectors related to national development plan, for ensuring the acceleration of the process of

socialist transformation in the country.

- To cancel the possessory mortgage on immovable property because of the sufficiency of security mortgage.

### **Item (2) : The Civil Procedure**

As the goal of making judicature accessible to citizens, through the simplification of procedure of recourse and litigation and the achievement of speedy decision is one of the principal goals of the legal system reform, the realisation of this goal requires adopting the following bases in the procedure Laws concerning the Civil Legislations:

- To simplify the procedures of instituting the suit, especially the simple ones as some peace and Shara suits.
- To expand the authority of Courts in the proceedings of suit, such as guiding the plaintiff to the court competent or defining the conditions to be fulfilled for bringing his action, its decision being liable to objection.
- That the papers of suit and evidence concerning claims and defence must be



completed within a certain period before fixing the date of pleading, without giving a delay after that for completing them except for once and for reasonable excuse which the court decides its acceptance. This shall be reasoned in its decision concerning this subject.

- To eliminate the complication and delay in issuing summons, by setting up a special and full time working organ for summoning and of a certain standard of qualification.
- To promote and expand the principle of arbitration and displaying peace on the parties of suit by the Court during the period of pleading.
- To establish a special judicature of arbitral bodies for deciding upon the disputes which arise among the Ministries or the State organizations or the public sector and cooperative sector, in accordance with special rules marked by simplification and speedy deciding and not bound by the procedures of the ordinary Courts.

- To consider some suits of specific nature, such as the simple peace and Shara suits, as urgent suits by Law, and to simplify their procedures and to reduce the periods of their services in away similar to the procedures of urgent judicature.
- To consider the suits which are tied with a precautional decision, such as attachment or prevention of disposal or suspension of work-as urgent suits in all stages of their consideration.
- To authorize the Court-in case of urgent judicature-with discretional powers for conducting survey when necessary before serving the other party, for the purpose of fixing the material facts are feared to disapear.
- To include the decision of the Court at its issuance the definition of the Court which is regarded as resort to objection and the period of objection.
- To expand the jurisdiction of the Courts of Appeal so as to include, in its capacity as a court of cassation the consid-

eration of some of peace as cassation in a part of peace, Shara and first instance suits, and to regard their decisions as final.

The Court of Cassation with its general body may issue binding directions which shall be published in the Official Gazette when conflicting decisions are issued in this suit.

- To restrict the suits which are contested before the Court of Cassation to important suits according their value or subject.

### **CHAPTER THREE**

#### **Administrative and Political Legislations**

##### **Item (1)**

#### ***THE CONCEPT OF THE STATE***

- The distinctions of various societies consist in the existence of the authority. We refer to political authority when we are concerned with the state. In every society there is one authority, and each state has its own political authority. The one political authority is exercised by Political Leadership

which sets out an economic and social plan or policy crystalised in various political choices taking the form or formula of legislations.

- If authority in the State is one, this means the negation of the idea of “Multiplicity of Powers”. Legislative, Executive and Judicial The Political Leadership that exercises the authority determines the framework of political, social and economic life through its legislations. This implies the necessity of creating the bodies executing these political, social and economic choices. Hence the necessity of the administrative job that is exercised by the Administrative System and the judicial jobs which is exercised by the Judicial Systems.

In every society there is someone who sets out the legislative rules and another who applies these rules. Application of legislative rules is through ensuring the existence of “State Administration” or the judiciary in case of disputes that may arise in the society. Thus, in every State there exists one political authority that sets out the general policy or genreal framework for the community through its legislations, then

there exists an administrative function and a judicial one.

So the task of judiciary is to implement the general rules put by the legislator. The judges, whether punishing those who contravene or violate the legal rules or giving their opinions in a dispute between persons regarding the application of the legal rule, they in fact apply these legal rules. When they inflict punishment upon the persons they are in fact applying the law, irrespective of its violators and when they interpret the law or ensure its applicability or inapplicability to any specific relationship they also apply the law.

The nature of the service done by the judiciary (and it is Administering justice through the application of law and ensuring respect for its contents in letter and spirit) makes it imperative that those administering it are protected against influence by others. Thus, the will of the legislator expressed by the laws made by it and applied by the judiciary within the framework of the political, economical, and social philosophy of the State. Therefore, the judiciary is a public service the nature of which requires the independence of those doing it, so, judicature is indepen-

dent in the application of the law and subject to none but the law.

Authority is not exercised for itself or in itself by man for the sake of man. Thus the exercise of Authority must be carried out with the people's consent and only then can it be legitimate. Therefor the people are the source of the legitimacy of authority.

But if the people is "The source of authority and its legitimacy", as it is stated by the Iraqi Constitution (Art. 2), then it is the definition of the concept of people that on which the definition of the kind of democracy depends. This, in its turn, will determine the kind or nature of the political system, i.e. the way of exercising authority in the society. This implies that the method of exercising power in a particular country and at a particular time come about within an ideological framework determined by the social and economic conditions of the Society.

The people as interpreted by the Revolution and the Leading Party, the Arab Baath Socialist Party, is all the members of Society who enjoy equal rights and equal duties. But in exercising democracy, wherther in terms of right of election of democratic institutions or right to be

represented therein it is inevitable to exclude all persons who take a political, economical or intellectual attitude hostile to the Revolution and its programme. The status of these people shall be defined by the democratic practice by the laws and measures taken by the authorities concerned. Revolutionary political consciousness shall play a decisive role in immunising public opinion towards them. This being an exceptional case created by the necessity of transforming society and from one political authority to another. This case may be prolonged or curtailed according to the surrounding circumstances and is not in any way, permanent.

The type of democracy required in the Revolutionary society is determined by the Eighth Regional Conference of the Arab Baath Socialist Party as "People's Democracy" which differs radically from liberal democracy which is the form of domination of the bourgeois class on the majority of the people. It also differs radically from the dictatorship of the proletariat that allows only one class to lead society.

The people's democracy in the concept of the Revolution and its leading party consists in the right of all social classes and strata, who

believe in the goals of unity, freedom, and socialism, to express their opinion and take part in building the society and its leadership through the political institutions as lead by the Party, namely the Arab Baath Socialist Part: and through the National Council, People's Councils, Organisations, Trade Unions, The Press and other ways of organisation, mobilization, expression and democratic practice.

## **Item Two:**

### *THE ORGAN OF THE STATE*

The Political Leadership exercises power in society, i.e., it, first of all, makes choices which are translated into rules which put the general framework for the march of society.

These principles, however, need crystallisation, namely, finding solutions to the everyday problems of society, through daily exercise of power and consequently, by drawing up the general graph, for the march of society in accordance with the vision of the Political Leadership. This means that the Political Leadership needs the apparatus to apply the directive legislations of the Leadership to face the march of life so as to lead this march and give it its



true dimensions emanating from central and general indicators. This requires a reconsideration of the apparatus of State putting rules to organise the way of its works and its formations and achieving co-ordination and interaction between them in accordance with the conceptions of People's democracy as well as the requirements of the National Development Plan so as to enable it to reflect exactly the orders of the Political Leadership and the aspirations of the masses. Therefore, it is necessary to review the principles determining the administrative apparatus first and then the juridical apparatus.

### **First : The Administrative Apparatus:**

The Administrative Apparatus which consists of the army of Administrative Officials exercises power vertically and horizontally, i.e. through central administration and local administration.

#### **A — The Central Administration:**

We have inherited from the previous regimes administrative apparatuses most of which are still lagging behind the spirit of the age and indulging in bureaucratic practices and lacking scientific and technological efficiency.

The Revolution cannot maintain its achievements, continue its march and deepen its relationships with the masses if its administrative apparatuses do not fully understand the significance of Revolutionary changes, and does not fully respond to it and behave passively and indifferently and sometimes without sense of responsibility, in addition that they contain elements who objectively belong to the renegade forces.

If the administrative apparatus is to play a basic role in applying the aims of the Revolution the following principles must be taken into account:

- The “politicisation” of the public duty since the official applies legislations which are choices governed by the unity of the political vision of the Leadership.
- Lay the bases to remedy the phenomenon of bureaucracy by remedying the aloof attitude to the people, separation from the problems of the working people, satisfaction with office work only which looks at people’s problems through piles of paper, being away from life and its complexities.
- To create new forms to enable citizens to

participate in running public affairs and to create large popular network which support the public office and link the organs to the society.

- Link the public office to production and the execution of State plans at the fixed dates.
- Review the distribution of officials over the State apparatuses rationally in accordance with scientific productive foundations which will save manpower and achieving the highest results with fewest cadre and use modern methods of administration.
- To apply whenever possible the style of collective work and back it up with the principle of personal liability of the official.
- To qualify citizens to occupy public posts before appointment, and to increase the qualifications of the officials as well as to preparing them professionally.
- Set out scientific criteria to evaluate the efficiency of the officials work.
- To create the conditions which help the official to combine work and study which should be, as much as possible, relevant to the present or future official work.

- Abolish all distinctions between male and female with regard to the public posts, and to guarantee mother employee suitable conditions.
- Determination of salaries in accordance with quantity and quality of production and conditions of work. Salaries should not be only determined by certificates or degrees.
- Set up rules for incentives and remunerations in accordance with results of work and period of service.
- Set up unified criteria for additional wages and allowances.
- Distinction between an increase in salary and upgrading and not to be linked to each other.
- Ensure suitable material and moral conditions for the official during and after the work to ensure a reasonable income to his family afterwards.
- The State is responsible for any harm caused to the official resulting from exercising his duties.
- Discipline shall be secured in the public

office through persuasion and conscious attitude as well as by the punitive measures towards negligent officials in case of necessity.

- Punishments shall be imposed by disciplinary committees and official courts, provided that this should not affect the discipline exercised by the administrative head.
- The application of laws of general service shall be supervised by judicial organs deciding upon all disputes and contraventions.
- Set up rules organizing supervision and inspection to ensure the good performance of work in the state departments and the Public Sector Organisations.
- Unifications of rules governing all the civil service officials working in the State Departments and Organisations of the Public Sector.

#### **B — Local Administration -**

The problem of the local administration within the framework of economic, social, and political development which is witnessed by Iraq since the 17-30 July 1968 Revolution raised three

main entangled and interconnected matters which are: The Administrative Divisions, Autonomy and People's Councils.

### *1. Administrative Divisions-*

- The Administrative Division of the Country was based on backing and consolidating the tribal system. This division was recognised since the Ottoman era, the the occupation period and the monarchical era. And its main survivals and form are still in existence. It was based on the independence of each tribe within a particular locality (Dairet Alashira) which took thereafter the form of an agricultural districts, and then have been seized by the Sheiks and the tribal leaders in the name of the clan (Ashira), on the basis of predomination which consequently remained on the spur of continuous conflicts. The predomination afterwards was represented in relationship with the authority.

The system of the British occupation recognized the situation prevalent during the Ottoman era in this respect. Then it operated to make this Administrative Division linked in the first place with the districts

(Muqataat). Hence Ernest Dawson report which granted the Sheiks and tribal leaders these districts. It was also the basis of land legislations concerning the system of land. The most important of these were: The Law of Settlement, of hand rights, the law of granting (Lazma), in 1932.

The tribal civil and criminal lawsuits system issued in 1918 had rendered the tribal chiefs as bodies assisting the administrative authorities in settlement, orders execution, and governmental duties. Thus, realizing a linkage between the semi-feudal system, the political and administrative system which remained prevalent until the Revolution of 14th July, 1958.

- The economic, social, and political changes emanating during the Republican era especially after the 17-30 July, 1968 revolution necessitates reviewal of assigning and altering the Administrative Divisions in the light of the following considerations:
- The Administrative Divisions shall be on the basis of new form for the management and organisation of the agricultural sector so as to be in conformity with the expansion

in the agricultural administrations and the State Farms in order to facilitate the implementation of Development Plans and economic, judicial and administrative services in the agricultural projects.

- The Administrative Divisions shall be on the basis of industrial projects requirements of raw material, energy sources and industrial-agricultural turn-key projects due to the existence of economical and social integration between the managements of these projects and the workers and between the Administrative Authorities.
- The development of economically and socially backward areas and transfer of its inhabitants from a nomadic way of life to that of stability and civilization.
- To observe the population density in the area as this facilitates the Administration task and assists in making available and providing services to the citizens as well as endeavouring to promote the general standard of the administrative unity.
- To bridge the gap between the administration and the citizens so as to promote National feeling and strengthen the relation



between the citizen and people's powers.

- The Administrative Division which takes these factors into considerations is assumed to maintain relative steadiness in order to accomplish stability. Yet, it should be reviewable whenever necessary in the light of the change of circumstances and development.

Likewise, the changes of the economic, social and political circumstances in the Country had also necessitated new legislations to reflect those changes in the field of Administration and Administrative Division. However, the legislations issued in this connection after the Revolution of 17-30 July 1968 have failed to reflect these changes. So, the Governorates Law No. (159) of 1969 leaves the Administrative Divisions of the State as it was before and, as far as creation and alteration of administrative units are concerned, in much of its provisions it has never departed from the provisions included in The Law of Liwas Administration No. (16) of 1945 nor from the preceding Law No. (58) of 1927. Therefore it is necessary to :

- Form a main committee made up of members from the Ministries of Interior, Planning, Agriculture and Agrarian Reform, Industry and Minerals and Justice as well as specialists, from which sub-committees will be formed to study the subject of Administrative Divisions and laying the foundations for the change required in accordance with the bases determined by the Revolutionary Power.
- Legislate a new law for the Governorates that takes the following considerations into account:
  - That the councils of administrative units shall represent agricultural and industrial economic units, and professional organisations.
  - The reality of autonomy in Kurdistan.
  - The reality of People's Councils existing throughout the Country.

## **2 - Autonomy -**

Originally, the power of the state is one power which extends over all its territory. However certain districts may exist in the state having special relations among their

inhabitants in addition to the common relationship between the State citizens, among whom are the inhabitants of these districts, where these have distinctive relationships the extent of which varies in time and place so as to be graded from the private local interests to the national, historical and cultural relationships. Therefore these local districts have special life and local common interest which requires the exercise of a local power by bodies related thereto.

This is actually the real reason for the existence of decentralisation and consequently, the Autonomy which is an advanced form of the decentralisation. Through the local districts possess power of their own, the central power or the power of the State shall extend to whole State territory without exception and shall be directly exercised over all the State citizens including the local districts inhabitants who are the citizens of the State firstly and above all.

- The reality of Autonomy cannot but influence the local administration in Iraq. It is also subjected to the requirements of developing the local administration. Therefore the connection of the governorates

with the chairman of the Executive Council shall be determined within the framework of the Administration of the Local Affairs, but not the central affairs, by the Governor, so he becomes a local agent. However, the Governor remains the representative of the central authority in the district of Autonomy.

Accordingly, the position of the governor has become of a dual nature: on one hand he is connected with the Autonomy bodies as far as the local affairs are concerned, and on the other hand he is concerned with the central power, as far as he supervises and administers the central offices in the district. With this view of thing the jurisdictions of the governor set out in the Governorates Law shall have a new dimension and meaning. This conception of the position of the governor in the district also necessitates the reconsideration of the Governorates Law as regards the competence of the governor. Through the legislations related to the national rights have importance in the administrative division of the Country, yet it is essential that coordination between the national and economical factors should be

taken into consideration for the purpose of achieving the chief objective of the social and economic development and to avoid its delay. This in turn requires reconsideration of the Governorates Law, as the Autonomy Law states that the Administrative divisions in the area shall be in accordance with the provisions of the Governorates Law with due regards to the provisions of this Law.

### **3 — The Peoples Councils**

- The people's Councils which should exist at every Administrative unit in the Country is the practical formula for the people's democracy. This is because while they express the will of the People, promote its creative initiative and increase its activities in various spheres, they simultaneously consolidate and strengthen their relationship between the State Bodies and the masses by drawing increasing of their numbers to participate in the administration of the State and linking the local requirements with the general tasks of the State. Thus the People's Councils carry out conomic, social, cultural tasks or activities bearing local character and participate in performing the economic plan and the budget of the

administrative unit within the National Economic Plan and the State Budget.

- The existence of People's Councils cannot but leave its effect upon the local Administration, on one hand, and upon the Autonomy, on the other, whether this is concerned with the subject of jurisdictions specialisations and the structure of the People's Councils, or with relationship of the central authority and bodies of the People's Councils. The central authority should have its own opinion on the elections of the bodies of People's Council and should supervise the conduct of the elections of the People's Councils according to the Law. The central authority shall have the right of supervising the People's Councils Bodies which may reach the limit of suspending the head or the members of People's Council Presidency Body from performing their duties should they commit whatever contravenes the provisions of the Law or that not conforming with the general line of the State Policy. It may also issue general directions to the People's Councils and committees related there to realise the achievements in a satisfactory manner.

It may also repeal or suspend the People's Councils decisions contravening with the law or the general line of the State Policy as well as to resolve the People's Council if it exceed the powers conferred upon it in accordance with the law or if its activity does not conform with the general line of the state policy.

The central authority shall undertake the coordination between the functions of the People's Councils Presidencies Bodies and directing them, by issuing general directions to the Presidency Bodies on the way of undertaking their activities. It shall settle disputes between on one hand, or between them and the Ministries, on the other. Therefore, the People's Councils which are a new institution of the Revolutionary society and one of the pillars of building the Popular Democracy, creates several relations which should be governed by new rules and concepts from the traditional concepts and rules. This necessitates once more to reconsider the Governorates Law and to define new relations and checks between the People's Councils and Governors, as well as between them and the Autonomy Bodies and, conse-

quently, between the Central Authority and these Bodies.

## *SECONDLY*

### *MACHINERY OF JUSTICE*

Machinery of Justice has a special importance due to the responsibility it bears in applying the laws and doing justice in a spirit that assimilates the nature of social and economic transformation and can deepen and accelerate them. This entails the following:

- The Judicature is functionally independent in the settlement of disputes and it takes part in realizing the aims of the society. This requires its reorganisation on new bases.
- Laying down new rules for choosing the new judges in accordance with the socialist aspirations. It shall include specifically the existence of qualifications and examination which will reveal the competence of the candidate to fill this post and his understanding of the nature of the stage of development.



- Development of the legal and intellectual standard of judges by way of researches, seminars and courses decided in this connection and linking the result of their efforts with promotion.
- To endeavour to realize the principle of specializaion in Judicature.
- The participation of the Judicature and the public prosecution in evaluating the legislations force so as to know the exten of their conformity to the developing reality.
- The participation in observing the phenomenon of crime and disputes as well as the submission of practical recommendations to decrease and remedy them.
- To assimilate the legislations and the new Revolution Resolutions, the application of old laws in force in the spirit of the Revolution with a judicial mentality that agrees with socialist objectives.
- To bring the services rendered by judicature nearer to the citizens and to facilitate recourse to the judges and to simplify the procedures as well as to ensure speedy settlement of the law suits.

- To reconsider the judicial fees in accordance with the stage of socialist construction.
- To start with the unification of the courts and judicial committees and connecting them gradually with the Ministry of Justice.
- To study and develop the experiment of participating by citizens, who are not professional judges, in judicial work, such as labour judicature and the committees of the Agrarian Reform, as well as the creation of new form for this participation in accordance with the experiment of the people's democracy.
- To study the exercise by citizens of the simple forms of the judicature such as joint committees in factories and the disciplinary committees in the offices and organizations, and to extract results built thereon, as well as to develop them in cooperation with the peoples councils.

The establishment of special courts and arbitration bodies to consider the cases concerning government official, public sector and vocational organizations, and to render judgement in disputes to which the Ministries, State Organizations or the Public Sector are parties.

- Backing Public Prosecution ensuring the necessary guarantees for it and embarking upon developing it and raising the standard of its efficiency to secure its comprehension of the economic, social and political transformations currently prevailing in the Country together with the execution of its functions as a main machine for observing legitimacy and respect for the application of law.
- To stress the role of the legal inspection as a guide and a director in addition to its surveillance role and the submission of recommendations and reports that help develop the organs of justice.
- To back the legal inspection with the efficiencies.
- To close the gap between the inspection and the court and justice organs in the appellate districts.
- To develop the methods of execution so as to secure getting rid of the hindrance and delay and the execution of judgement as well as to develop the financial and accountancy works therein according to most modern methods.

- To develop the methods of work and introduce modern equipment in the departments of the Notaries Public and to the duty hours therein convenient to serve the citizens.
- To complete the development of real estate registration, raise the standards of those working therein and to bring up to the stage where it can keep pace with every modern development.
- To consider the registration fees of the real estate in conformity with the socialist construction stage.
- Originally the task of the Directorate of Minors Properties is the supervision, control and questioning of the trustees and guardians who undertake the administration of minors properties.
- To develop the organs of the minors properties departments, to raise the standard of the efficiency of their officials qualifications and to organise the financial and accounts performance therein to make them keep pace with the modern developments .
- To transfer the Diwan of Legal Drafting Department to the State Consultative Coun-

cil (Shoura), specialised in the preparation and scrutinising the legislations, to give opinion for the purpose of ensuring the unification of the legislation and making it compatible with the directives of the Political Leadership.

- Advocay is one of the essential conveniences of Justice and should be practised with a new mentality which agrees with the socialist orientation of the society. To this end it is essential to reconsider the concept and role of advocacy so as to become a basic element of justice.
- To raise the professional, legal and intellectual standard of lawyers.
- To expand the principle of secondment of lawyers and to increase fees rates.
- To secure pension for lawyers so as to suit this noble profession.
- To lay general political foundations that ensure coordination between the Ministry of Justice and the authorities concerned, in order to prepare, qualify and develop legal cadres of judicial mentality which complies with social transformation requirements.

*Hem (3) :*

## *THE CONSTITUTION OF THE STATE*

### *Firstly — The Conception of the Constitution*

If the distinguishing mark of the State consists in the existence of power exercised by a political leadership then the constitution of the State constitutes the collection of rules that determine, or, more exactly, shows the method by which the power is exercised by the political leadership. In any country where there are written or traditional rules that regulate the method of exercising the power, it can be said that these rules constitute the constitution of the state of that country. However, power is not exercised for its own sake but for achieving objectives or social, economic and political purposes. Moreover, the exercise of power or more exactly, the method of practising the power which is defined by the constitution, is itself influenced by the economic, social and political reality of the country over which power is exercised. Owing to the importance that these economic, social and political foundations enjoy, they have to be stressed and declared in the constitutional document, therefore, the constitutional document may include group rules or

principles which show or define the ground on which underlines the society in which power is exercised. They show or define the philosophy of the political system or the bases of the regime, namely, they determine the general direction which the power shall be exercised accordingly through setting up the legal bases or legislations. Yet, the social, economic and political principles included by the constitutional documents may not be in part data but an objective or aim to be realised. Therefore, in this meaning, the "Constitution" shall be also a guide of action for the Political Leadership and a programme for a future policy. The political leadership intends to realise through exercising the power.

*Secondly.*

### **THE NATURE OF THE CONSTITUTION**

In its essence, therefore, the "Constitution" is a consecration of political Visions and choices for the political leadership. These political choices are connected with the political, social, and economic bases and, consequently, the political for the society, whether presented as accepted facts or as a programme or as a guide for future action.

These choices are also related to the method of exercising power (the constitution in its narrow sense) which are a political choice dictated by certain social, economic, and political conditions.

The method of exercising power in the State is influenced by the economic and social bases of the society, as it simultaneously affects these bases.

Therefore, the nature of the constitutional rules is political, and the constitution has a political lexical meaning though the constitutional document includes rules of legal nature.

## **CHAPTER FOUR**

### ***CRIMINAL LEGISLATIONS***

In their essence and irrespective of the nature and standard of legal technique employed in their construction the criminal legislations aim at supporting the classes and strata prevailing in the society. In Iraq the Revolution of July, 1958 inherited criminal laws with a content that responds to the nature of the former regime which subjugated significant part of the citizens to the rule of the backward feudal-tribal customs.



Despite the economic and political change which took place after the July 14th, 1958, nevertheless no serious change in legislations inherited had occurred. This presented the July Revolution 1958 with the task of achieving the reform during the present stage.

More than eight years ago new accomplishments related to the nature of the social, economic and political system came into existence which acquired a great significance in altering bases of politics and the criminal legislations.

In the light of the present circumstances which are continuously developing towards the better it is essential that, firstly, new criminal bases are determined, and secondly to lay progressive bases for criminal legislations which comply with the aforementioned accomplishments.

*Item (1) :*

### *BASES OF CRIMINAL POLICY*

To define the criminal policy bases, we have to state the basical starting points to which this policy is based, then to define the general targets which it intends to realise.

## *FIRSTLY*

### *THE BASIC STARTING POINTS*

Every Scientific criminal policy should be founded on the following basic starting points:

- There is nothing that impels man in general to lead an inhumane conduct if the possibility of fulfilling his human needs in a human way were made available to him.
- Crime is a social phenomenon and not an individual phenomenon inherent in a certain man or a group of (criminals by nature). Therefore, the analysis of criminal conduct should emanate from the social structure and from the objective Laws of society which govern the human activity.
- Man is a whole: a product and actor in a specific social, economic and political condition. Therefore it is incorrect, on searching for crime reasons to give judgement based on elements isolated from his personality without taking into consideration his mutual relations.
- To be criminally responsible, an individual must be able subjectively and objectively,

to choose or to refrain from the act which constitutes a crime.

If the principle of the criminal liability is confirmed, its scope shall be defined severely or shall be commuted in the light of the circumstances that contribute in forming the will of the perpetrator and his choice.

- The crimes should be evaluated differently on the ground of its constituent elements, and according to the extent to which it conflicts with the interests of society, or according to the danger to society it represents, in case of dangerous criminal acts.
- Contraventions are acts that reflect negative attitudes towards discipline and lay down obstacles before the activity of the public authority or impede the development of social life. However, they do not violate in a tangible way the interests of the society or the citizens. This accordingly entails:

Taking an understanding and developed attitude towards contraventions emanating from the estimation of its importance as an indication to the future of the perpetrator and to the trends of the crime's phenomenon and the danger of

the contraventions to the society because of its quality or quantity.

- Settling contraventions according to suitable procedures which don't take the form of criminal lawsuit, resorting to education, warning, and imposing special penalties, with taking into consideration the circumstances of the case and those of the offender, will greatly be helpful to the growth of the spirit of conscious discipline of the citizens, the respect of the laws and treatment of the disease before it gets grave.
- The Administrative Organs whose spheres of responsibility are infringed by contraventions shall undertake to follow up the offenders and inflict penalties upon them, according to a special provision.
- The society shall assist every person who is ready to admit his fault and to repair the damage caused by him and to present the evidence of his goodwill through a fully responsible conduct and a productive work.
- Punishment is a deterrent instrument and an endeavour to prevent committing new crimes and to reeducate the convicted.

Except those who committed crimes affecting the security of the State, the people's rights, or the honour of loyalty to the homeland, it is necessary to protect the convicted from the harshness of punishment, and to make him accustomed to respect social life bases and rehabilitate him as an active member in his society which needs him more than an instrument.

- On defining the criminal responsibility, the judicature should investigate, as far as possible, the reasons for the criminal acts and the social and private circumstances which helped in their committal to ensure rendering a just decision and the occurrence of positive effects on the personality development of the convicted.
- In case of recidivism, it is imperative to study the causes of the convicted delay to assimilate into the Society, and to get advice in this connection from those who are experienced specialists.

## *SECONDLY*

### *THE GENERAL OBJECTIVES*

Emanating from the reality of the social, economic and political development in the State

and the achievement aimed at by the Revolutionary Power in the field of the social, economic and popular democratic establishments, the criminal policy in Iraq should aim at:

- Protecting the system, security and the institutions of the State and keeping safe the Popular Democracy.
- Protecting the basis and concepts of socialist life and to bring up the citizens to respect spirit for the new common life bases.
- Discarding the capitalist nature in the criminal legislation, particularly the Penal Code, and to attach to the economic crimes the significance required by the present stage, subsequent to the large development introduced into the public ownership and into the State's role in administering and guiding the National economy. It is therefore essential to reconsider the penal system which was dominated by capitalist thought and to support the socialist trend which was reflected by the Revolutionary legislations in Iraq, and to pay attention to laying general rules that govern crimes which involve the national economy. In the framework of these general rules it is imperative

that a concentration is made particularly upon the violations of the public ownership, cooperative ownership, production means, organisation of agricultural and industrial production, rules for distribution of services and commodities, and misuse of granted power of distorting them in a form that causes harm to the National Economy or brings about an illicit private interest, and to protect private ownership as a social function having its role prescribed in the economic plan. In order to secure the success of this criminal policy in the economic field, it is inevitable to reconsider some of the general bases of the Penal Code like the criminal agreement, recidivism and attempt and to coordinate the criminal policy in the economical field so as to be an integral part of the policy pursued by the State in the field of economic legislation, to become a basic guarantee for the success of economic policy.

- To limit the problem of the juvenile delinquency and to curd effectively its intensity by adopting a Complete system founded on scientific bases and coordination of work starting from protection and ending with

further care on the way of first meeting with the general authority. To this end, diverse and suitable remedial institutions on a high educational level should be allocated, which shall be managed by specialist in juvenile affairs and to link all the system's apparatuses with the Ministry of Justice so as to become a complete unit with the investigational system and juvenile courts. When this system exists, with its human and material requirements, the role of law comes to define in form and subject what is required by the trial of the juvenile and the actions to be taken in his case, provided that it shall include the following bases:

- To adopt the principle of participating the jury members of those specialised in issuing the judgement.
- That contraventions and misdemeanours whose maximum punishment does not exceed a certain limit shall be heard by the juvenile magistrate alone.
- To introduce the principle of extracting the Paternal authority by the State when the interest of the juvenile and the society requires so.



- To adopt the principle of the parents responsibility in case of the children's delinquency so that they may be held accountable for their actions as deeds unrelated to delinquency.
- To deliver the country from social reaction that impedes its march towards socialism, by reviewing the texts which govern social life from a backward point of view.
- To protect the family and strengthen the social relations which do not conflict with the march of the Revolution.
- To protect the liberty, security, and dignity of the citizens against violations.
- To reconsider the aim, definition, infliction and execution of the penalty and defining it as well crime and to reeducate the convicted and assimilate them anew in the society, and to prevent their return to crime and delinquency.
- The decrease of crime is not achieved spontaneously but through guided human activity. Lawfulness makes itself felt only by common, conscious and effective activity. It is the social outcome of the efforts of millions of people.

- No transformations in the social conduct can occur unless the citizen realises thenew and becomes aware of the necessity of creating new methods and putting into practice. To educate the citizen for the sake of creating this conscious being is, indeed, the essential content of the political leadership activity. Therefore, it is essential to activate the social forces participating in combating the crime to play their cultural and preventive role in the framework of extensive and diverse organization, through the study of establishing the judiciary committees related to the People's Councils and the establishment of committees regulating traffic and committees for assisting the juvenile and youth care, and committees of parents and teachers .. etc.

*Item (2) :*

### ***BASES OF CRIMINAL LEGISLATIONS***

The aforementioned criminal policy will have no value unless their bases are reflected in the positive legislations. And as the Penal Code and criminal procedures Law and the Public Prosecution Law are the

most important positive criminal legislations in Iraq, we shall hereby state the most prominent grounds to which each shall be based.

## *FIRSTLY*

### *THE PENAL CODE*

The Penal Code effectively contributes in protecting the achievements and the man of the Revolution against a scientific and social point of view, and according to the following bases:

- To cease regarding some acts which do not conflict with socialist philosophy as punishable crimes: and to regard the acts which conflict with State's economic interests as punishable crimes.
- To reconsider dividing crimes into felonies and misdemeanours and to give them new limits, and to treat contraventions by a special law in order to assist those who commit them to abandon their deficits and to inspire them with respecting legitimacy and common life.
- To stress that cases of using influence, for making illegitimate earning in the interest

of the perpetrator or others, shall be regarded punishable crimes, and to unify these cases within a general theory of the influence misuse crimes.

- To define the criminal liability in the light of the new relations between the individual and the society. If the conventional traditional view defines the liability on the bases of principle of choice, the new reformative view shall take into consideration the objective and personal factors simultaneously.
- The scientific view to the criminal, the crime and the victim should play its role in defining a new concept for the prevention of the criminal responsibility and in designing the means for reforming the criminal as well as protectng the society.
- To stress that the legal defense and the case of necessity shall include the interests of State, society, and the properties of Public Sector and cooperative sector.
- To introduce new substantive penalties not restrictive of liberty and to expand in their infliction in order to urge the convicted to do his utmost to repair the damage caused

by him, and to prevent its repetition as well as to ensure the support of society in improving his behaviour.

- To inflict penalties, restrictive of liberty, on persons committing serious crimes and on recidivists who refuse to reform themselves, and the penalty of penal servitude and that of death for serious crimes.
- Reconsideration of subsidiary penalties in such a way as to reform the convicted and to facilitate his reassimilation into society.
- Developing the penalty of fine so as to become a means for reforming the convicted. Its amount shall be determined in accordance with the standard of the magnitude of the crime and the financial position of the accused. Substitution of penalty of fine for restriction of liberty shall not be permitted.
- To authorise the court in case of multiplicity of the crimes with the power of imposing the punishments prescribed to each of them consecutively or concurrently.
- While assessing the punishment the court shall give due regard to the degree of social danger resulting from the crime, and shall take into consideration the personality of

the criminal, his past, and his personal circumstances, in addition to the objective circumstances of the case.

- In case the criminal act does not form a considerable social danger the court may deliver the accused to the care of a social organisation or refer the case to the Social Justice Committees, the setting of which is to be studied.
- The Court may pass less than the minimum judgement legally prescribed or shifting to other types of commuted punishment without adherence to the nature of the crime should the circumstances of the case and the personal circumstances of the accused require so. It should clearly and specifically justify its decision.
- Suspension of judgement shall be obligatory to the court, in certain crimes, and in certain cases. In general, expanding its cases and reducing its execution conditions shall be within a frame of the interest of society, provided however, that all the accused are treated equally, notwithstanding their social origin.
- When verdict is issued and execution is

suspended, subsidiary punishments shall not be permitted. The Court, when necessary, may take certain procedures seen fit to reform the convicted.

- To consecrate some of the provisions mentioned in the Interim Constitution, such as the prohibition of activities aiming at destruction of the national unity, or raising racial chauvinism or sectarianism or regionalism, or attacking the Revolution's achievements and accomplishments, or the call to distinguish between citizens because of sex, race, language, social origin, or religion.
- The (Statement of Grounds) of the Penal Code shall crystallize the basic concepts and states the subject, object, and functions of the Law, as a general indicator that assists in the application of the Law meticulously, not as a condensation of texts and generalization of incentives.

*Secondly —*

### *CRIMINAL PROCEDURES LAW*

The basic purpose of the Criminal Procedures Law is the rapid discovery of the fact about the criminal acts committed against the security and

peace of the society through investigation, trial, passing verdict, and its execution. Therefore it is deemed necessary that these procedures are carried out within the frame of the criminal policy which is imposed by the stage of development of Iraq and consequently, they shall include the following bases:

- To adopt the principle of prescription in the field of promoting the criminal case and in executing the penalties and determination of progression cases and their periods according to special bases in which the gravity and multiplicity of crimes should be taken into consideration.
- To proceed steadily on the way of increasing the judicial investigators and qualifying them in preparation, to assign them to investigation exclusively and to enable them to perform their tasks.
- To develop the functions of examining magistrates by the creation of specialised, fully devoted and qualified cadres.
- To develop investigation systems and employ modern methods to discover crimes, and to bring about the necessary coordination between the different systems related to



investigation and attaching them to the Ministry of Justice.

- To grant investigation and criminal powers to the non-magistrate Jurists in relation to offences and simple misdemeanours.
- To simplify and facilitate court proceedings so as to remove their complications and render them comprehensible to those concerned.
- To speed up deciding of cases by reducing notification and impeachment periods and developing notification methods and arranging systems to be attached directly to the courts to perform this task, and to find effective means that will prevent the unwarranted postponement of the trial.
- To reduce the periods and procedures which hinder the speedy decision in cases of appeal.
- To repeal the automatic appeal of the courts of session verdicts except cases involving punishments of life imprisonment or death sentence.
- To expand the cases where the Judge may issue the decision in the criminal case with-

out having to summon the accused, to cover a larger number of simple crimes.

- To study the possibility of establishing popular social committees to deal with simple contraventions, and to confer upon them the power of imposing non-criminal punishments.
- To reason criminal acts and state the circumstances in which occurred in resulting verdict so that the court may play a positive role in dealing with the cases it is presented with, and contribute to avoiding the occurrence of new crimes.
- The courts shall send a copy of legal reasons on which the judgement is based to the administrative authorities concerned in which it shall determine the negative aspects which have emerged during the trial and which may lead in future to the occurrence of other aggressions upon legitimacy.
- Appeal from the judgements issued by the Criminal Courts in misdemeanours shall be made before the Court of session, the latter's decision may be contested before the Court of Cassation.

- To expand cases where pardon or conciliation are permissible so as to cover of personal effects and the majority of negligence crimes.
- The execution of a death sentence is issued by the ordinary courts and shall not be executed unless after the lapse of one month on which the decision becomes final.
- To repeal the consideration of deprivation of rights and privileges as an imperative punishment and to confine their consideration as a possible punishment to be inflicted only exceptionally.
- To stress the application of the conditional discharge principle in case the sentenced proved to maintain a satisfactory conduct. The rate of discharge periods shall vary from one crime to another.
- To simplify the procedures of conditional discharge and to consider the decision issued by the court as final.
- The permissibility of delivering the conditionally discharged by a Court decision to a social organisation or a group of citizens under the supervision of the People's Council,

to observe his conduct during the remaining part of the punishment and to undertake an educational act so as to assist him reform himself.

- To get the devices necessary for following up the conditional discharge and ensure his success through helping the discharged for the sake of his return to normal life and productive work.
- To repeal the law of rehabilitation since the execution of the substantive punishment is considered as sufficient.

### *THIRDLY*

#### *PUBLIC PROSECUTION*

The basic task of the public prosecution is to contribute, together with the Judiciary and the authorities concerned, to the expedient discovery of the criminal acts, and to assist the Judiciary in imposing the punishments prescribed, and to achieve justice and protect the community. Therefore, the Public Prosecution should play a positive and effective role, together with rest of the system specialized, in preventing occurrence of crime and combating it. It is also system to control legitimacy and

respect for the application of Law. Consequently, it is necessary to support the Public Prosecution and to raise the standard and efficiency of its systems and to secure the guarantees necessary for it and to undertake its development so as to ensure the performance of its duties as an independent system governed by a special law according to the following bases:

- The person appointed as a member in the Public Prosecution is required to fulfil the same conditions required for the appointment of Judges. He shall enjoy the same rights and privileges during service and after its termination.
- The Head members of Public Prosecution shall enjoy the immunities which are enjoyed by the Judges when practicing the duty or away and shall not be questionable disciplinary of criminally unless within the limits drawn by Law.
- The Member of Public Prosecution shall be rebutted by the same way the judge is rebutted by when performing his judicial duties and he should refrain from any action which reflects on his detachment or the honour of the task he is assigned to.

- The member of the Public Prosecution shall be tried before special disciplinary committees. Special rules and procedures shall be followed in their cases, which are appropriate with the nature of the function and duties assigned to them.
- The head of Public Prosecution shall have the right of supervision and direct control on all the works of Public Prosecutions and their deputies. He may under the supervision and guidance of the Minister of Justice issue directive, recommendations and admonitions which are binding to them.

The Public Prosecution shall undertake:

- To move criminal cases, in addition to other side. As a representative of the public rights, he shall follow them up by investigation, trial and execution.
- To supervise all the investigating work and to make notes and submit requests concerning them. The competent judge shall consider these requests and take the suitable decision or action.
- To give opinion in all cases of cessation of legal actions, undertaking of peace preserva-

tion, good conduct, re-trial, extradition of criminals and the letters rogatory. The instructions issued by the Minister of Justice to the Public Prosecution in the cases of cessation of legal procedures and the requisition of letters rogatory and the delivery of criminals shall be binding.

- To attend all the judicial criminal trials and before all the committees bodies and councils of penal and judicial nature.
- To attend imperatively, hearings in some cases and trials so that no session should be held without the presence of the Public Prosecution.
- To give opinions on applications for conditional release and to ascertain the fulfilment by the conditionally released person of the conditions prescribed and to inform the court concerned of any crimes committed by the released or any violation of the conditions during probation period and to submit the final reports on dropping of punishments the execution of which has been stayed.
- To inspect detention centres and prisons and to submit periodical reports on them.

- The decided criminal cases shall be communicated by the Court of Session in its original capacity in crimes the punishments of which are penal servitude or death sentence, together with other cases the appeals from which are made by those concerned, to the Public Prosecutor of the Appellate District to submit his view and forwarding same to the Court of Cassation directly.
- Within the limits of laws, regulations and instructions, the Public Prosecution may draw attention to violations and encroachments which occur on application of penal rules and provisions. He may request or take whatever actions that ensure the avoidance of such violations and their corrections, and non-repetition.
- The Minister of Justice, upon a proposal by the Public Prosecution and when necessary, may confer upon the legal persons among police officers and the staff of justice the power of deputy public prosecutor to exercise the powers prescribed by law.
- The Minister of Justice has the right of control and inspection of all Public Prosecution Members; he may also inspect them through the legal inspectorate.



- The Minister of Justice, or whomever he authorises, may call the attention of the Public Prosecution member to anything done by him which is deemed contrary to his duties and the necessities of his post, and to all legal and administrative mistakes that appear as a result of inspection.

### **SECTION THREE**

#### **METHODS OF REFORMING THE LEGAL SYSTEM**

After defining the general grounds for the total legislations, and the objectives of the major groups which are the legal expression which must reflect the theoretical and ideological starting points of the Revolution Authority and its objectives of building the new society, it is imperative that these objectives are translated into tangible reality, i.e. to legal rules and provisions, and legislations. Therefore the means of reforming the Legal System must be on the levels of these objectives, in order that the process of reforming the legal system becomes a unified whole from the beginning until the complete realisation.

Whereas the operation of reforming the

legal system in Iraq requires full knowledge of all the valid legislations, and then its evaluation, and consequently deciding whether they should remain or be amended, replaced or repealed, therefore, the carrying of the reformation requires laying general and detailed plans - short and long term programmes, temporary and permanent - to be executed on stages.

Emanating from the principle of unity of legislation and in order to ensure the correctness and accuracy of the execution and the follow up, concentration is required on the execution committees unit that undertake the realisation of the Legal System Reform, conforming to the competency of these committees in relation to the duty to which they are entrusted, organising its work and contacts with systems concerned.

The whole operation for executing the reform cannot be realised without making available its necessary requirements.

Accordingly, the means for reforming the Legal System include defining: the execution stages, the execution committees and the requirements of execution.

## CHAPTER ONE

### STAGES OF EXECUTION

In order to control the operation of the reform as a whole starting from the present legislative reality, it is indispensable to make a survey and evaluation of the legislations in force and then to prepare the new legislations. Therefore, the execution operation may pass through stages in consequence and concurrence according to the requirements of the work.

#### **FIRSTLY — The Survey Stage**

This stage shall cover a survey of the legislations in force according to their subjects within the four groups covering the second part of the working Paper, in form of classified tables that may be a basis for complet index which the Iraqi Legislation lacks at present. Assistance may be taken from the officials of the Ministry of Justice Systems on a national level for the execution of this mission.

#### **SECONDLY — The Evaluation Stage**

The evaluation of the legislations in force shall be undertaken as follows:

- a. The definition of the fundamental or

secondary thereof within each group according to the philosophy of the Revolution and the requirements of the stage and the comprehensive National Development Plan, for the purpose of starting work on principal legislations.

- b. The definition of the contents of the principal legislations in the light of the objectives stated and field studies.
- c. To decide whatever shall remain or being cancelled, amended or changeable thereof.
- d. Laying down the detailed grounds and rules that shall be related with the amendment or the change.

### **THIRDLY — Legislation Stage -**

**The Legislation Stage covers the following**

- a. To decide upon the bases that should be dealt with by the amendment or a alteration.
- b. To prepare the projects of the required legistaltions, and placing them with the competent authorities for approval and their issusance.

c. As the legislation itself is a continuous operation which keeps pace with the State policy and the functions of its systems, it is therefore imperative that the current and daily functions should comply with the objectives and requirements of the legal legislation reform plan until the completion of its . implementation. This requires the following :

1. As the legislation task is originally one of the Ministry of Justice tasks, and ensuring the unity of legislation and unity of work, and to avoid duality and contravention sometimes, therefore, the legalisation drafts to be issued must go through it before its enactment to enable the legislative authority to be acquainted with the Ministry of Justice opinion before approving and issuing the legislation.
2. Hence, upon preparing, by one of the Ministries or authorities, a legislation project, particularly when the legislation being significant or major, it should then prepare in advance a comprehensive report reflecting the

reality of the valid legislation to be amended or altered and the alteration requirements, the bases and provision required to incorporate, which reflect its objectives that are linked to the prescribed general objectives. Thus the required coordination can be realised according to the requirements of the legal system reformation plan. This mode finds support in the legislation currently valid, where Article (4) of Legal Codification Diwan Law No. (49) of 1933 allows every Ministry to ask the Legal Codification Diwan to prepare and organise a law or a regulation related thereto, provided that it attaches to its request a report containing the bases of the legislation required. Consequently, it is possible to expand the aforesaid permission through a circulation to the Ministries by the higher authorities advising the necessity to follow such mode when they prepare new major legislations, provided that an emphasis should be placed on the importance of issuing the reports attached with their reque-

sts by the legal department thereof, which forms a linking chain with the Ministry of Justice.

## **CHAPTER TWO**

### ***THE EXECUTIVE BODIES***

The implementation of the Legal System Reform task necessarily requires the adopting centralism to ensure the work unity of the execution bodies and their connections, and to achieve the guidance and supervision necessary for the accuracy and soundness of execution. The participation of the execution bodies themselves in laying the plans and the detailed programmes ensures the comprehension by such bodies of the plan objectives and their dimensions and to make available the required power to implement what they themselves have participated in decision.

These bodies shall be as follows:

#### **Firstly — Legal System Reform Body**

##### **A. Structure of the Body**

1. A Body by the name of (Legal System Reform Body) shall be formed, to be attached to the Revolutionary Command Council, which consists of a

Chairman and a number of fully devoted members of high standard experience and specialisation suitable for the task of the Legal System Reform.

2. The Body shall have a secretariat system to undertake the organisation of technical and administrative work and the financial requirements necessary for the work of the Body and the committees and systems related thereto. The selection of its members shall be according to special rules.

## **B — Jurisdictions of the Body**

The Body shall undertake the following tasks:

1. Guidance and supervision on programmes and plans implementation, and organizing the adoption of the field work mode by the committees during the stages of Legal System Reformation implementation and in accordance with the necessities of development.
2. To decide upon the plans and programmes pertaining to the implementation stages submitted thereto by the principal committees.



3. To supervise and follow up the work procedure of committees in executing the plans and programmes.
4. To decide upon the detailed bases for legislations.
5. To decide upon the formula of legislative projects prepared by the committees, confirm their suitability and correspondence with the prescribed bases, and thence to submit them to the competent authorities for approval and issuance.

## *SECONDLY — PRINCIPAL COMMITTEES*

- A. Composition of the Principal Committees
  1. The Body for the Legal System Reformation may set up principal committees to be attached thereto, each to consist of a number of those of experience and specialisation.
  2. The responsibility of each principal committee shall be assumed by a member of the Body.
  3. The Chairman of the Body may

preside over the meeting of any committee when necessary.

4. The Body may form special committees for specific legislations in accordance with necessity.
5. Starting from dividing the legislations into principal groups according to their subjects, and from the existence of legislation which are within the competence and the responsibility of the Ministry of Justice, and the necessity of rendering them a special standing, and the availability of potentials with the Ministry of Justice for their execution and submitting the initiatives thereto, it is deemed necessary that the judicial legislations shall have a special committee.
6. Accordingly, the principal committees will be:
  - Commercial and economic legislation committee.
  - Civil legislations committee.
  - Political and administrative legislations committee.

- Criminal legislations committee.
- Judicial legislations committee.

**B — The competence of the Principal Committees.**

1. The implementation of survey; evaluation and legislation preparation tasks each according to its specialisation.
2. The preparing of work programmes, determination priorities and submitting them to the Body for their approval.
3. The preparation of legislative projects which issuance is decided.
4. Submitting to the Body reports regarding their activities and the activities of the subsidiary committees, and the work requirements.

**THIRDLY —Subsidiary Committees**

Every principal committee may form subsidiary committees according to work requirements, or for dealing with certain questions falling within its tasks, through submitting proposal to this effect to the Body for approval. Each subsidiary committee shall be headed by a member of the principal committee to which this committee belongs.

## **CHAPTER THREE**

### ***EXECUTION REQUIREMENTS***

The execution of the Legal System Reform task requires the following:

#### **FIRSTLY : Tehnical Requirements**

##### **A. Ministry of Justice**

To enable the Ministry of Justice to perform its role in the completion of the legal reformation task and to absorb the progressive steps and transforming them into a concrete reality, requires:

1. To put plan to care for the young cadres of the whole state systems to become qualified in absorbing the new legal and legislative policy.
2. To provide facilities required by work, specially:
  - The acquirement of necessary documents from different countries to make use of them and consult with their appropriate contents.
  - To facilitate the viewing of external experiences, particularly those of the

brotherly Arab countries and the friendly countries, by delegating those concerned with the legal system reform concerned with the legal system reform to those countries and the recruitment of experts therefrom for certain periods to make use of their experiences.

3. To transform the legal Drafting Diwan to "The State Consultative Council". Its tasks shall be:

- The preparation and examining of legislations regarding the present stage, in coordination with the competent committees of the Legal System Reform Body.
- To provide legal consultation for the Ministries, official authorities and public sector in whatever queries presented thereto.

#### **B. Legal Researches Centre**

There appears to be a dire and increasing need for the establishment of a system in the Ministry of Justice to undertake the legal studies and researches. Most of the countries of various

regimes have cared for the establishment of such a centre since the beginning of their transformational stages. This centre occupies a particular significance at the present stage - the stage of laying and realizing the legal system reform-it can be regarded as one of the important and principal means for the legal system reform.

### **1. The Importance of the centre**

The significance of the Legal Researches Centre is concentrated on:

- To give theoretically and Practically, the researches and legal studies their scientific dimension, so as to convoy with the scientific development and the development requirements in Iraq and the Arab Homeland in this respect.
- To assemble the legal and scientific abilities available to make utmost use of them.
- To care for the Islamic Arabic jurisprudence and legal heritage.
- To make available legal researches and studies relevant to the general development operation of the Country.

## **2. The Centre's Tasks.**

In consequence to the above the tasks of the Centre shall become as follows:

- To undertake studies and researches relevant to the legislation reform and machinery of Justice.
- To undertake studies and field investigations which are required by the Justice and legal system reformation plan.
- To study the phenomenon of crime in cooperation with the courts and the public prosecution and to present periodical reports for their contraction.
- To participate in legislations surveyance and their classification and indexing.
- To participate in crystallizing and formulating the legislation bases.
- To take care of analytical judicial statistics and to consolidate its foundations to become an important instrument in the development of the revolutionary judicial policy.
- To participate in distributing and deepening the legal and judicial consciousness among all citizens through:

- + Various mass media.
- + Organizing the holding of legal seminars and courses and participating in legal qualification in order to raise the the legal cadres standard particularly that of the young cadres, constantly and ensuring their absorbing of the legislative philosophy of the Revolution authority.
- + Contributing to holding Arab, regional and International seminars and conferences and participating therein.
- + Publishing periodical and non-periodical publications, and transferring the supervision task of the (Al-Adala) periodical published by the Ministry of Justice thereto.
- Organizing the availability of documents, legislations, and the sources necessary for the achievement of its tasks and the transfer of the Ministry of Justice library thereto to become the nucleus of its library.
- To make use of the fraternal and friendly countries experience in the field of legislation and law.



- Taking part in preparing the 5 years and yearly plans so as to be appropriate with the need requirement and the Ministry of Justice abilities.
- Taking part in preparing the long-term plan of the Ministry of Justice.

### **3. The Centre's Composition.**

- The Centre shall consist of those concerned with the legal sciences and highly qualified and experienced. They shall be of two kinds:
  - + Fully devoted members assigned, loaned or seconded thereto.
  - + Non-devoted members for certain periods.
- The Centre shall have a secretariat to undertake organizing its work and connections with the other apparatuses.
- The Criminal and Social Researches Centre belonging to the Ministry of Labour and Social Affairs shall be amalgamated therewith.
- Assistant researchers representing the young cadre shall be appointed represent-

ing the developed appointed cadre at the Centre, they shall work with the member researchers.

- The process of work in the Centre shall be organized according to instructions to be issued by the Minister of Justice.

## **SECONDLY : Human Requirements**

The most important requirements for the execution and completion of the Legal System Reform Plan are to make available the appropriate human requirements quantitatively and qualitatively.

### **A. Quantitative Aspect**

- To make use of national specializations and experiences available in the apparatuses of Justice and other State apparatuses including the public sector.
- To make use of the scientific efficiencies in the Iraqi universities.
- To make use of specialization and experiences and scientific efficiencies from outside the State apparatuses and from outside the State.

## B. Qualitative Aspect

- To take care in selecting the suitable persons for each of the tasks that are included in the Legal System Reform Plan.
- The selection shall be in names and not in the official posts. This requires:
  - + To surpass the traditional ways in selection, nomination, commissioning and approval .. etc.
  - + To confer upon the body the powers required for appointment, loan, delegation, secondment, contracting, deputation and all that necessitated by the Legal Reform System.

## **THIRDLY : The Financial Requirements.**

The execution of the legal reform system that extends over a specific period requires the preparation of financial requirements to cover the necessary expenditures, including the cost of studies, follow up, administration experts, supplies, salaries, allowances and other expenses required by the nature of the work for achieving this task.

This entails:

- A. To assign sufficient allocations to achieve the mission of the Legal System Reform including expenses, for establishing and creating the legal research centres, to be counted on the allocations of the National Development Plan, thereby its total cost and its distribution over the plan years shall be defined later on.
- B. To give the committee financial powers for the expenditure on:
  - Purchase of necessary materials and equipment.
  - Lease of suitable premises.
  - Grant of allowances and compensations in proportion to work and production.

#### **FOURTHLY : Organizational Requirements.**

Whereas, the Legal Reformation Plan is connected with all the State apparatuses, and the Ministry of Justice plays a principal and central role in the State by virtue of its responsibilities and duties, therefore, the obligation of the State apparatuses by it and the coordination of cooperation in

achieving the plan with the Ministry of Justice are necessary for a sound and speedy execution. The programming and laying of time tables defined according to the required quality and quantity of the executive works are also a necessary and important matter.

But, the most important obligation in this respect is the achievement of the Legal Reformation, particularly the main and important legislations, as "it is inevitable that it (The Next Stage) will witness the achievement of this task on a comprehensive and radical level in order to put an end to the state of imbalance and disharmony existing in the society," in fulfillment of what has been decided by the Political Report of the Eighth Regional Congress of the Arab Baath Socialist Party. (P. 241).

### *CONCLUSION*

From the aforementioned it is clear that the working paper has drawn the horizons of the Legal System Reformation in Iraq, outlined its directions and established its bases, clarified its paths, condensed many of the principles and

legal theories and laid many indications. So it has become as a programme and a guidance of action for the legislator and, consequently, it has not contained formulation of provisions of arrangement of legal projects, but left it for a long-term future work which it has indicated its objective, starting points, general contents, requirements and implementation stages.

In determining the objective of reformation, the working Paper has adopted the ideological bases and concepts contained in the Political Report and gives them their real dimension required in the field of legal life. It set out from what is now to what is to be in a meaningful scientific view which takes into account the present and past circumstances of Iraq without losing sight of the future and its expectations. Thus, it has based its studies and presented its suggestions on new grounds and ideas for the function of law, deriving its potentials from the objectives of the Arab Baath Socialist Party which leads the Revolution and its power.

The importance of this working Paper is manifested in its being the first planning onset of a legislative Revolution, which lays down the foundations of a modern and socialist State.

It is not possible for the Revolution to deliver its message in constructing and realizing the new society without renewal of the individual's values, their concepts, and conduct through legal reformation that embodies the system it has decided its construction and consolidation. Then, the legal change is part of the total process of history, and is a prominent element in the history of the Revolutionary March.

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